IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

-

WRIT PETITION NO : 19660 of 2004

Between:

M.S.Rao, E-77508, Driver, S/o.Ramaiah,
Ibrahimpatnam Depot, R/o.Ranigari Thota, Vijayawada.

..... PETITIONER

AND

1. The Regional Manager, APSRTC, Krishna Region, Krishna Dist.

at Vijayawada.
2. The Depot Manager, APSRTC, Ibrahimpatnam Depot, Krishna Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents herein in ordering recovery of the stagnation increment paid vide proc. NO.E1/369(1)/2003-IBM, Ibrahimpatnam Depot, dated 19-8-2003 as illegal, contrary to the law laid down, and as such liable to be set a side in the interest of justice with a consequential direction to refund the recovered amount forthwith by granting the stagnation increment to the petitioner on completion of 12 years of service w.e.f 11-5-1978 irrespective of his transfer from the date of initial appointment and to pay the arrears by refixing the pay of the petitioner forthwith and

to pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent Nos.1 & 2: MR.R.MANMADHA REDDY

The Court made the following :

ORAL ORDER:

The petitioner is an employee of the respondent-A.P.S.R.T.C who was appointed as a driver on 11-05-1978. He was transferred to Krishna Division at his own request on loss of seniority and to become junior most driver-Gr.II in Krishna Division. Therefore, his seniority was reckoned in the post of driver in Krishna Division with effect from 10-04-1981. The petitioner contends that from the date of initial appointment, he completed 12 years of service on 01-05-1991 and he was granted 12 years of stagnation increment. The respondent-Corporation subsequently issued proceedings mentioning that the special grade increment was granted to him without considering his transfer from one region to other region. Therefore, the petitioner is not entitled for special grade increment and the amount paid to him in the special grade in excess of the regular scale and is liable to be recovered from him. Accordingly the 2nd respondent passed an order on 19-08-2003 for recovery of Rs.27,572/- being amount paid towards excess wages which was drawn by him from 01-05-1991 to 30-06-2002. The petitioner being aggrieved by the order of the 2nd respondent dated 19-08-2003 filed this writ petition challenging the validity and legality of the said order.

In the light of the judgments of this Court, the legal position is clear and an employee, who is working in the respondent-Corporation continuously for 12 years, is entitled for stagnation increment irrespective of his transfer from one region to other region.

In that view of the matte, the respondents are not entitled to recover the amount as communicated in the impugned order. The impugned order dated 19-08-2003 is, therefore, set aside by holding that the respondents are not entitled to recover the

amount already drawn by the petitioner. The amount if any, recovered shall be refunded to the petitioner.

Accordingly, the writ petition is allowed. No order as to costs.

_____ Dr.G.YETHIRAJULU, J.

Dated: 27th October, 2004.

*TSNR

To

1. The Regional Manager, APSRTC, Krishna Region, Krishna Dist.

at Vijayawada,
2. The Depot Manager, APSRTC, Ibrahimpatnam Depot, Krishna

Dist,

3. 2 CD copies.